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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/830,144

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Johnson Jennifer

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EXAMINER

NGUYEN, VI X

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/830,144	<b>Applicant(s)</b> JENNIFER ET AL.	
	<b>Examiner</b> Victor X. Nguyen	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5,7-13,15,17,21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5,7-13,15,17,21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This office action is in response to communication filed on 1/26/2009. Claims 5, 7-13, 15, 17, 21 and 23-25 remain pending in this application.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5, 21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Brothers 2,387,428.

Claim 5: Brothers discloses a tourniquet article comprising: a substantially rigid base 10 (col. 2, lines 10-11); a handle 28; and a strap 18 in communication with said handle, the strap being engaged with said base at a first point upstream (from the left side of item 20) from said handle and at a second point downstream (from the right side of element 20, fig. 3) from said handle such that said handle is maintained in a position relative to said substantially rigid base to reduce binding of said base when said handle is twisted, and wherein said handle is a rod (the whole area of 28 is considered a rod ) including notches 30 disposed at first and second end portions.

Claim 21: Brothers discloses a buckle 20 connected to said substantially rigid base, said buckle being adapted to engage said strap to secure said tourniquet in a deployed arrangement, said buckle being tapped to accept a screw to secure said strap to said base (fig. 3).

Claims 23-24: Brothers discloses a tourniquet article comprising: an elongated handle 28; a substantially rigid base 10; a strap 18 disposed contiguous to said base and in communication with said handle; a structural member 20 fixedly attached to said base, said strap being sandwiched between at least portion of said structural member and said base to minimize twisting of said strap, and wherein the structural member includes a cap 22 (fig. 3).

Claim 25: Brothers discloses a tourniquet article comprising: an elongated handle 28 ; a substantially rigid base 10 underlying said elongated handle; a strap 18 configured to be tightened about an injured limb, said strap being engaged with said handle and being engaged with said substantially rigid base at i) a first point upstream (from the left side of left item 20) from said handle and ii) at a second point downstream (from the right side of right element 20, fig. 3) from said handle such that said substantially rigid base is maintained in underlying relationship to said handle thereby reducing binding of said substantially rigid base when said handle is twisted.

Claims 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by McMillan 6,899,720.

Claims 23-24: McMillan discloses a tourniquet article comprising: an elongated handle 20; a substantially rigid base 16; a strap 12 disposed contiguous to said base and in communication with said handle; a structural member 39 fixedly attached to said base, said strap

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being sandwiched between at least portion of said structural member and said base to minimize twisting of said strap, and wherein the structural member includes a cap (fig.1).

Claim 25: McMillan discloses a tourniquet article comprising: an elongated handle 20 ; a substantially rigid base 16 underlying said elongated handle; a strap 12 configured to be tightened about an injured limb, said strap being engaged with said handle and being engaged with said substantially rigid base at i) a first point upstream (from the superior of item 20) from said handle and ii) at a second point downstream (from the inferior of item 20, fig. 1) from said handle such that said substantially rigid base is maintained in underlying relationship to said handle thereby reducing binding of said substantially rigid base when said handle is twisted.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brothers.

With regard to claims 7-8, Brothers discloses the invention substantially as claimed, except regarding the strap has a width of between about 1 inch and about 2.5 inches and the handle includes an aperture that is slightly wider than the strap. It would have been obvious to modify the strap has a width of between about 1 inch and about 2.5 inches and the handle includes an aperture that is slightly wider than the strap , since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the

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optimum or workable ranges involves only routine skill in the art. In re. Aller, 220F, 2d 454, 105 USPQ 233. As to claim 8, Brother discloses the strap 18 passes through the aperture (fig. 1).

With regard to claims 9-13, Brothers discloses the invention substantially as claimed, but he does not disclose wherein said base comprises a layered composite including a lower layer comprised of one of a non-skid fabric, a non-slip fabric and a looped end Velcro, and wherein the layered composite includes an intermediate layer affixed to said lower layer and an upper layer affixed to said intermediate layer, said upper layer comprising a substantially rigid material, and wherein the upper layer comprises a plastic material, and wherein the upper layer comprises nylon scuba webbing, wherein the intermediate layer comprises a polypropylene webbing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the Brothers base (stiff thick leather) of more modern materials such as a layered composite including a lower layer comprised of one of a non-skid fabric, a non-slip fabric and a looped end Velcro, and wherein the layered composite includes an intermediate layer affixed to said lower layer and an upper layer affixed to said intermediate layer, said upper layer comprising a substantially rigid material, and wherein the upper layer comprises a plastic material, and wherein the upper layer comprises nylon scuba webbing, wherein the intermediate layer comprises a polypropylene webbing, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use or as a matter of obvious design choice. In re Leshin, 125 USPQ 416. *Furthermore, it would have been obvious to substitute the material of Brother with the modern material, for-example, a layered composite including a lower layer comprised of one of a non-skid fabric, a non-slip*

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*fabric and a looped end Velcro, and wherein the layered composite includes an intermediate layer affixed to said lower layer and an upper layer affixed to said intermediate layer, said upper layer comprising a substantially rigid material, and wherein the upper layer comprises a plastic material, and wherein the upper layer comprises nylon scuba webbing, wherein the intermediate layer comprises a polypropylene webbing so that it too would have the same advantage.*

Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brothers in view of McMillan.

Brothers discloses the invention substantially as claimed except for a handle lock which includes a ring movably attached to the base. However, McMillan shows that the device has a handle lock which includes a ring either at 24 or 28, where the ring is movably attached to the base (see col. 5, lines 14-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brothers with a handle lock which includes a ring movably attached to the base as taught by McMillan in order to secure the strap to the base.

### ***Response to Arguments***

4. Applicant's arguments filed 1/26/2009 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AnhTuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VN/

/Michael J Milano/  
Primary Examiner  
for SPE of Art Unit 3734